

**Public Comment:**

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**Sent:** Monday, June 26, 2023 8:35 PM

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**Subject:** Re: Public Comments - Application of Philip Estates for Final PUD

**Dear Trustee:****The Philip Estates ('PE') application for 'Final' PUD/Subdivision is legally deficient and must be rejected for the following numerous reasons:**

1. Village Code makes it "unlawful" for any private person (e.g., PE) to use any subsurface portion of any Village right-of-way, as PE is proposing by crossing under Cuba Road (and Turnberry Lane) for sewer service.

2. Village Code mandates (and Glenstone Unit 2's Declaration of CCR currently includes), a provision that Glenstone's improvements are for the exclusive use of its 'membership', which membership does not include PE.

(N.B.: As such, Glenstone's president has no lawful authority (outside of a duly adopted and recorded Glenstone CCR amendment, approved by the Village, pursuant to Art. 9, Sec. 5) to unilaterally agree to any such proposed PE sewer connection to Glenstone's proprietary system mandated by the Village for members' use only. PE fails to cite any lawful authority in its application that trumps this ordinance and Glenstone's recorded CCR.)

3. The PE application does not include any written authorization, easement or approval for use of Lot 1 by owners Shah and Famina Jahan or by IDOT for Lot 45 from the State of Illinois, Department of Transportation. Lacking such authorization this is another PE illicit plan to trespass and take private property with Village knowledge and complicity (after PE abandoned its other plans to take the property of the Wongs (Lot 3) and Goldbergs (Lot 5) following protests).

4. Like Glenstone HOA, Lake County Public Works does not own and cannot authorize or grant PE a easement or connection to Glenstone Unit 2 subdivision's 'proprietary' sewer system.

5. Otherwise, PE provides no duly approved and recorded easement from Glenstone members and sewer owners that would allow PE to discharge its effluent or waste water into their private sewer system without their consent after PE connects.

(N.B.: Glenstone HOA is not the owner of the sewer but itself an easement holder strictly for 'maintenance, repair and replacement', or alternatively, 'to maintain, restore and replace' Common Area improvements. The Association was strictly created

'...to *maintain* the Common Areas and improvements thereon...'. The Association was not created to sell access to its members' sewer system to non-members in violation of law.)

6. Village Code mandates that no permit shall be recommended or granted unless PE establishes its plan will not cause substantial injury to the value of other lots in the neighborhood in which it is located. PE has not fulfilled this mandatory requirement as required by Code, including what its connection does to the value of the Jahan and IDOT properties.

7. PE has presented no alternative fire safety plan after rejecting its own plan to obtain water for hydrants from Glenstone Unit 2. Village Code mandates PE establish a plan that will protect public safety before recommending or granting approval. To my knowledge, LGFPD nor anyone else has seen or approved a PE fire protection plan.

8. PE has failed to obtain a declaratory judgment from the court attesting its questionable plan passes legal muster. This is PE's obligation given the above clear legal complexities, and also given, it is PE's plan and application for approval. PE is putting the Village in the improper position of deciding legal issues that the Village itself alleges are best reserved for a court of law. The status quo should be maintain until PE obtains a court order for the Village and its residents in PE's favor resolving these issues.

9. PCZBA made its recommendation contingent on PE satisfactorily addressing "all Village review comments and requirements", but has not posted for public consideration as of this date, what those 'comments and requirements' actually are, nor did PCZBA have PE's 'final' plans for 'final' approval!?

10. According to the OMA, a public body must post the agenda for a particular meeting on the public body's website at least 48 hours in advance of the meeting. As of 6/26/2023 @ 5:29 p.m., no agenda is posted at the Village's Meetings webpage under Agendas for the 6/27//23 Village Board Meeting.

The Village Board has no option but at this time to deny PE's application until these fatal flaws and violations are addressed and/or corrected, several of which facially conflict with Village Code and Glenstone's Village approved CCR, as presently written\*.

I hope you find this helpful, and expect the courtesy of your pt. by pt. reply if you disagree. Please see these comments are posted at the Village's website under the caption Philip Estates Alleged Violations and maintained as part of the PE record.

Respectfully submitted,

Phil Goldberg  
3807 RFD, Glenstone Unit 2

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A public officer or employee or special government agent commits misconduct when, in his official capacity or capacity as a special government agent, he or she commits any of the following acts:

(1) Intentionally or recklessly fails to perform any mandatory duty as required by law; or

(2) Knowingly performs an act which he knows he is forbidden by law to perform; or

(3) With intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority; or

(4) Solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law.